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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

USTARIS, JOSEPH G

ART UNIT

PAPER NUMBER

2617

DATE MAILED: 12/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/530,396

Applicant(s)

HENMI, HIDEKI

Examiner

Joseph G. Ustaris

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This action is in response to the amendment dated 20 September 2005 in application 09/530,396. Claims 1-24 are pending. Claims 1, 2, 8-11, 16, 17, 23, and 24 are amended.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Young (4,706,121) in view of Browne et al. (International PCT WO 92/22983) and Wood et al. (US 20020057893A1).

Regarding Claim 1, Young discloses a storage-type data receiver (See Figure 4) for receiving (See Tuner 164) and storing (See VCR 216) TV programming (Col. 7, Lines 66-68) and TV scheduling information (Col. 6, Lines 60-64). The TV programming reads on data containing content information being updated at irregular intervals. The scheduling information reads on next-update information indicating when the content programming will be next updated. The data and next-update information are distributed by a data source, where the next-update information is transmitted together with the TV programming (See column 6 line 60 – column 7 lines 32). Young further discloses a

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reception means for receiving the data and next-update information (164), extraction means for extracting the next-update information from the data (See Fig. 4 168 and 169; column 8 lines 23-40), and a storage means for storing the content information (179). Young further discloses the use of the scheduling data to automatically trigger the storage of a program for unattended recording (Col. 12, Lines 14-24). When a recording event is scheduled, a test is performed to see if the system clock is within the scheduled time (Col. 20, Lines 40-43). It is inherent that there must be a signal or indication from the comparator instructing the recording device to become active. This reads on the claimed data update detection means for comparing a current time and a next-update time indicated by the next-update information so as to generate a data update time indication signal indicating whether or not it is time to update the content information. The content information being updated is the video program to be recorded. Further disclosed is a data storage control means for controlling storage of the content information in the storage means based on the data update time indication signal (Col. 20, Lines 54-64). What is not disclosed, however, is that (1) the previously stored content information in the storage means is replaced by (2) only content information that is different from the content information previously stored in the storage means.

(1) Browne discloses a video recording system (See Figures 1 and 6) for receiving and recording transmission signals (Page 6, Lines 1-4) wherein programs to be recorded are stored in a finite capacity storage section and are automatically erased to make room for newly recorded programs (Page 19, Lines 6-18). Browne is evidence that ordinary workers in the art would appreciate the ability to erase an old program to

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make room for a new program in a video recording system. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Young with the replacement of content information of Browne in order to optimize available space and prevent missing of recorded programs due to lack of space on a finite sized recording medium. This reads on the claimed replacing previously stored content information.

(2) Wood et al. (Wood) discloses a digital recording and playback system that receives and records transmission signals (See Fig. 1). Wood discloses that the user can define criteria for recording programming. For example, the user can specify that only programming that the user has not previously viewed and/or recorded should be recorded or "content information that is different from the content information previously stored in the storage means" (See paragraph 0103). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the recording system of Young to allow the user to define criteria for recording so that the system will record programs that have not been previously recorded, as taught by Wood, in order to optimize available space of the storage means by not recording programs that have already been recorded.

Regarding Claim 2, Young in view of Browne and Wood disclose a system as stated above in Claim 1. Young further discloses a system wherein the video recorder is controlled to store the received content information contained in the received data when the scheduled time coincides with the current time as stated above.

Regarding Claim 3, Young in view of Browne and Wood disclose a system as stated above in Claim 1. Young further discloses a system wherein the reception means comprises a tuner means (164) for arbitrarily selecting a signal of a broadcast channel among plural signals of broadcast channels (Col. 7, Lines 66-68) and a tuner control means for controlling channel selection (Col. 8, Lines 48-66) by the tuner means based on the data update time indication signal (Col. 8, Lines 35-40).

Regarding Claim 4, Young in view of Browne and Wood disclose a system as stated above in Claim 3. Young further discloses a system wherein the tuner control means controls the tuner means in such a manner so as to enable the tuner means to tune itself with the arbitrarily selected channel when the current time coincides with the next-update time (Col. 4, Lines 48-52 and Col. 8, Lines 23-40).

Regarding Claim 5, Young in view of Browne and Wood disclose a system as stated above in Claim 1. Young further discloses a system further comprising a power supply control means for controlling power supply to the reception means based on the data update time indication signal (Cols. 8-9, Lines 62-4).

Regarding Claim 6, Young in view of Browne and Wood disclose a system as stated above in Claim 5. Young further discloses a system wherein the power supply control means supplies power to the reception means only when the current time coincides with the next-update time (Col. 20, Lines 40-64).

Regarding Claim 7, Young in view of Browne and Wood disclose a system as stated above in Claim 5. It is inherent that the power supply control means supplies power to the data update detection means regardless of the data update time indication

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signal. If this were not the case, the control logic would not be active and would never know when to turn on the recorder for recording.

Regarding Claim 8, Young in view of Browne and Wood disclose a system as stated above in Claim 3. Young further discloses the selection of themes or particular programs for unattended recording (Col. 12, Lines 14-24). These programs will be recorded based on their identification without user intervention regardless of what time they are broadcast. This reads on the claimed storage data identification information means for generating identification information for specifying the content information to be stored, wherein, based on the identification information, the tuner control means tunes the channel of the tuner means to a broadcast channel through which the content information to be stored is distributed.

Regarding Claim 9, Young in view of Browne and Wood disclose a system as stated above in Claim 8. In such a system that may automatically record data based on pre-selected parameters such as theme, there must inherently be a data extraction means for extracting the specified content information to be stored from the received data based on the identification information.

Regarding Claims 10-12, see Claims 1-4 above.

Regarding Claims 13-15, see Claim 10 above. It is inherent in such a computer-based system (See Figure 4) that there must be a computer program running thereon to carry out the methods as stated above.

Regarding Claims 16-24, see Claims 1-9 above.

Response to Arguments

3. Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

Applicant is reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The examiner suggests that the applicant consider providing more details in the independent claims about the content information as supported by the applicant's specification.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph G. Ustaris whose telephone number is 571-272-7383. The examiner can normally be reached on M-F 7:30-5PM; Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JGU
December 1, 2005



VIVEK SRIVASTAVA
PRIMARY EXAMINER